

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. 2:12-CR-399
	§	
JOSE DELEON-SANCHEZ; aka AYALA-	§	
BERNAL	§	

MEMORANDUM OPINION AND ORDER DENYING
WITHOUT PREJUDICE MOTION FOR COPIES

On September 19, 2012, following his guilty plea to the offense of Reentry of a Deported Alien, Defendant was sentenced to serve a term of 37 months in the custody of the Bureau of Prisons (D.E. 24). Judgment was entered September 20, 2012 (D.E. 24), and Defendant was advised of his right to appeal (*See* minute entry for 9/19/12). Defendant's Notice of Appeal was due October 4, 2012. FED. R. APP. P. 4(b)(1)(A)(i). Defendant did not timely file his notice of appeal, nor did he timely seek an extension of time to file his notice of appeal. FED. R. APP. P. 4(b)(4).

On December 28, 2012, Defendant filed a *pro se* motion for copies, which the Clerk also docketed as a notice of appeal (D.E.26, 27). The motion for copies (D.E. 26) was referred to undersigned United States Magistrate Judge. Defendant contends he needs copies of evidence and motions in order to pursue his appeal. Defendant has not explained why his appeal was not timely filed, and the Court of Appeals will likely dismiss it. *See United States v. Martinez*, 496 F.3d 387, 388 (5th Cir. 2007) (Rule 4's deadlines are mandatory, not jurisdictional, and can be waived); *United States v. Leijano-*

Cruz, 473 F.3d 571, 574 (district court did not err when enforcing time limits in Rule 4(b)).

In any event, no transcripts have been prepared because the defendant pleaded guilty and did not timely file a notice of appeal. The Court does not have possession of any “evidence” in the case because there was no trial. Defendant has access to his indictment, Presentence Report, and judgment, located in his file at the Bureau of Prisons. The Clerk shall mail to defendant a copy of the docket sheet. The defendant may purchase copies of any documents (except for sealed documents) located in the Clerk’s file for ten cents per page.

Other than providing the defendant with a copy of the docket sheet, the defendant’s motion for copies (D.E. 26) is denied without prejudice.

ORDERED this 31st day of December, 2012.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE